

SUMMARY ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Sweeney Analyst: Gloria McConnell Bill Number: AB 1630

Related Bills: _____ Telephone: 845-4336 Amended Date: 07/28/98

Attorney: Janet Ballou

Sponsor: _____

SUBJECT: Child Support Enforcement/State Agencies and Businesses with State Contracts Report Names & SSNs of Contractors to EDD

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended _____.

AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as amended 5/22/98.

FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO support.

REMAINDER OF PREVIOUS ANALYSES OF BILL AS AMENDED 3/18/98 and 7/7/98 STILL APPLY.

OTHER – See comments below.

SUMMARY OF BILL

This bill would require state agencies to report the following information to Employment Development Department (EDD) for inclusion in its new employee registry (NER):

1. the name, address, social security number (SSN) of the recipient of a state loan or grant and the recipient's employer's name. Applicants of state loans and grants would be required to sign an affidavit relating to child support compliance. If the recipients are entities other than individuals, the name and social security number of the responsible managing person would be reported; and
2. the name and SSN of each contractor that contracts with the state agency. The state agency would not be required to report the information under this bill if the state agency has already provided that information about that contractor. If the contractor is a corporation or partnership, the name and social security number of the responsible managing person would be reported.

Additionally, trades or businesses, including governmental entities, that contract with the state and currently are required to file an annual information return with the Internal Revenue Service reporting personal services of an individual for which \$600 or more was paid would be required to accelerate that reporting to EDD. The reporting would be made within the earlier of 20 days of entering into a personal service contract or first paying amounts in excess of \$600. Individuals performing personal services (service-providers) for a trade or business for which \$600 or more is paid are commonly termed "independent contractors."

The bill would describe the form and manner for reporting to EDD and provides the period during which the reported information would be retained by EDD.

SUMMARY OF AMENDMENT

The July 28, 1998, amendments do not affect FTB's programs or operations.

Board Position:

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Department/Legislative Director

Date

Johnnie Lou Rosas

8/13/98

SPECIFIC FINDINGS

Implementation Considerations

The following Implementation Considerations raised in FTB's previous analysis still apply:

With respect to the contract-reporting requirement (under Section 4 of this bill) - The majority of FTB's contracts are with corporations and partnerships, for which FTB would be reporting the name and SSN of the "responsible managing person." It is unclear whether all corporations and partnerships have a designated "responsible managing person." Also, it is unclear what is to be achieved with this information. Additionally, there is no indication as to the consequences if the contracting corporation's or partnership's "responsible managing person" refuses to provide the required information, especially considering that it is unclear for what purpose this information would be used.

With respect to FTB's collection program (under Section 3 of this bill) -- It is unclear the purpose for reporting the names and addresses of recipients of state loans and grants. It is unclear whether the purpose is to make the loans and grants subject to withholding to satisfy the applicant's child support or tax delinquencies. If the FTB were to use the information to issue a withholding order to the state agency that reported the name of the recipient, and the withholding order were received before the loan or grant is paid to the applicant/debtor, it is unclear whether it is the intent of the author for the payments to be withheld from the applicant/debtor to pay child support or taxes rather than for the purpose for which the loan was intended (i.e., small business loan, educational financial aid). Additionally, it is unclear why Section 3 of the bill would require every state agency making a state loan or grant to report the name of each recipient's employer. Under the Unemployment Insurance Code (UIC), if the recipient is employed, the recipient's employer would be reporting this person as an employee. In the case of a student, the recipient may not be employed, or in the case of a small business loan, there would not be an employer.

Technical Considerations

A typographical error appears on page 5, line 6. The attached Amendment 1 makes the correction. In addition, as reflected in FTB's previous analysis, FTB could more effectively use the contractor information reported under Section 4 of this bill to issue withholding orders if the reporting state agencies were required to report that state agency's name and address. Amendment 2 makes the suggested change.

POSITION

Support. At its August 6, 1998, meeting the Franchise Tax Board voted 2-0 to support this bill, with the representative of the Department of Finance abstaining.

FTB'S SUGGESTED AMENDMENTS TO AB 1630
As Amended July 28, 1998

AMENDMENT 1

On page 5, line 6, strike out "orreimbursement" and insert:
or reimbursement

AMENDMENT 2

On page 5, line 26, after "agency" insert:
and the name and address of that state agency